

Summary Proposed Triennial Review Water Quality Standards Amendments

June 2007

Section of Regulation Amended	Summary of Change	Comments
9 VAC 25-260-10 Designation of Uses	Minimum effluent requirements in the antidegradation policy clarified to refer to §§ 301(b) (1)(A) and (B) and 306 of the Clean Water Act (Best Available Technology and National Performance Standards) instead of more generally §§ 301(b) since this section also includes water quality based permit limits.	This is a clarification consistent with EPA guidance. Water quality based permit limits should not be included because they are not 'minimum effluent requirements.'
9 VAC 25-260-20 General Criteria and Mixing Zones	Added a prohibition for mixing zones for bacteria and modifies subsection B.11 to match language in the antidegradation section 30.A.2 which refers to new and existing dischargers instead of new and increased dischargers.	Reflects existing agency permitting practice and needed to replace the disinfection requirements proposed for deletion in the bacteria section (9 VAC 25-260-170).
9 VAC 25-260-30 Antidegradation Policy	Removed words "is nominated" from Lake Drummond Exceptional Waters designation.	Lake Drummond is no longer 'nominated' but adopted as an Exceptional Water.
9 VAC 25-260-50 Numerical criteria for dissolved oxygen, pH, and maximum temperature	Revised pH criteria for Class VII swamp waters to 3.7-8.0. Expanded narrative criteria for Class VII swamp waters to recognize natural quality for DO and pH will fluctuate and fall outside values presented and when this happens the values are not considered violations of the criteria. Site specific criteria may be developed but only when protective. VPDES limits should not cause significant changes to background levels. Added a reference to other sections of the regulation that may contain site specific criteria to DO, pH and temperature.	This was done in corroboration with the Department of Game and Inland Fisheries and US Fish and Wildlife Service to eliminate incorrect impairment listings for these unique waters.
9 VAC 25-260-55 Implementation procedure for dissolved oxygen criteria in waters naturally low in dissolved oxygen	Deleted.	Procedure has been implemented and no longer needed.

Summary Proposed Triennial Review Water Quality Standards Amendments

June 2007

Section of Regulation Amended	Summary of Change	Comments
9 VAC 25-260-90 Site Specific Temperature Requirements	Deleted protocol for developing site specific temperature criteria but keeps language referring to thermal variances.	This protocol has never been used and staff believes it represents guidance rather than regulation. Site specific criteria for all criteria are allowed under another section of the regulation (9 VAC 25-260-140 D). The narrative that refers to thermal variance will remain since thermal variances under the Clean Water Act have been granted.
9 VAC 25-260-140 Criteria for Surface Water	<p>Added correct footnotes to opening paragraph to subsection A.</p> <p>Deleted Opening paragraph to subsection B that says the agency may use information from the EPA to establishing effluent limits as necessary until the board has completed the standards adoption process.</p>	<p>Staff believes the general criterion is the appropriate regulatory mechanism to regulate parameters that have no criteria. This allowance has never been used.</p>
9 VAC 25-260-140 Criteria for Surface Water, continued....	<p>Updated Table of Parameters to include the EPA 2000 Human Health Methodology (except for arsenic and nickel) and all updated aquatic life criteria.</p> <p>Also included in the Table of Parameters is a new fish tissue criterion for methyl mercury of 0.30 mg/kg.</p> <p>Radionuclide criteria updated to match drinking water regulations.</p>	<p>Fifteen of the human health criteria were published with the Relative Source Contribution (RSC) factor and these have been included. The RSC assumes 80% of exposure to the pollutant comes from other sources (food, air). The other human health parameters did not use the RSC and the main difference between them and the existing criteria is the higher fish intake value of 17.5 g fish/day. Arsenic and nickel not updated as they are under review at EPA.</p>
9 VAC 25-260-140 Criteria for Surface Water, continued...	<p>Added a footnote to the table to clarify the criteria in the table are 2 significant digits and other criteria referenced in the table are the number of digits listed in their respective sections (e.g. dissolved oxygen is 2 and ammonia is 3 or 4 significant digits).</p>	<p>Footnote reflects existing agency practice.</p>

Summary Proposed Triennial Review Water Quality Standards Amendments

June 2007

Section of Regulation Amended	Summary of Change	Comments
9 VAC 25-260-170 Bacteria; Recreational waters	<p>Recalculated the geometric mean criteria for freshwater using two values (126 and 206) to receive public input on both. The two values are calculated using the illness rate for freshwater at 1% and .8% (the marine illness rate remains at 1.9%).</p> <p>Included amendments to explain where the means apply (fresh vs. saltwater), how to calculate the geometric means (4 weekly samples each month), a requirement that no more than 10% of the total samples in the assessment period shall exceed 235 or 384 E. coli CFU in freshwater (two alternatives are presented because these values are mathematically derived from the geometric means, which are presented as two values) and 104 CFU in saltwater when there is not enough data to calculate a geometric mean. Also, single sample maxima of 235 or 384 (in freshwater) and 104 (in saltwater) shall be used for beach advisories and closures.</p>	<p>The geometric mean is the environmentally relevant endpoint according to EPA. EPA gives States flexibility in choice of illness rate (any rate between 8 -10 is protective of primary contact). EPA gives states flexibility in application and expression of the single sample maximum. This expression of the criteria is protective of designated uses because it is more protective than the EPA published 75th confidence level, it is consistent with the past expression of the fecal coliform criteria and we are applying criteria statewide to provide all waters the same level of protection intended for beaches. This format is also easier for the public to understand.</p> <p>Two values are presented as alternatives for the geometric mean and the single sample values for the public to comment on. One will be chosen for the final.</p>
9 VAC 25-260-170 Bacteria; Recreational waters, continued....	<p>The permitting requirements are deleted.</p> <p>The disinfection waiver allowance is deleted.</p> <p>Subsection C (Secondary Contact Criteria) are revised to match the primary contact subsection format.</p>	<p>Existing practice not needed in the bacteria section since a prohibition to mixing zones (i.e. bacteria criteria are end of pipe limits) has been added to the mixing zone policy.</p> <p>Disinfection waivers more appropriately handled via the existing variance allowances in section 9 VAC 25-260-140 E.</p>

Summary Proposed Triennial Review Water Quality Standards Amendments

June 2007

Section of Regulation Amended	Summary of Change	Comments
9 VAC 25-260-185 Criteria to protect designated uses from the impacts of nutrients and suspended sediment in the Chesapeake Bay and its tidal tributaries	Revised the open water dissolved oxygen criteria to indicate the assessment will be done in two seasons summer and non-summer. Simplified the introduction to the submerged aquatic vegetation (SAV) subsection to one sentence. Deleted the water clarity 'no grow zones' (no shallow water use in the Elizabeth River segments). There are four segments that currently have zero goals for SAV and water clarity acres but they are not 'no grow zones' like the Elizabeth River. New data indicates one of the segments has recovered 4 acres of SAV. These 4 acres along with the necessary water clarity acreages (10 acres) added to the table.	These changes reflect existing practices and existing methods of adding or updating new SAV acreages criteria when information becomes available.
9 VAC 25-260-185 Criteria to protect designated uses from the impacts of nutrients and suspended sediment in the Chesapeake Bay and its tidal tributaries, continued....	<p>Clarified that when the most recent three consecutive years of data are unavailable that the most recent three years within the data assessment window shall be used (rather than the most recent 5 years).</p> <p>Added a footnote to the chlorophyll criterion subsection to refer the public to section 310 which contains site specific criteria for chlorophyll.</p> <p>Added updated references for implementation.</p>	These changes reflect existing practices.
9 VAC 25-260-290 Tidal Water Sampling	Section deleted.	This section indicates on what tide samples should be taken. This is information best place in guidance or standard operating procedures.
9 VAC 25-260-310 Special Standards and Requirements	<p>Updated special standard "m."</p> <p>Deleted special standard "s."</p> <p>Clarified special standard "y."</p> <p>Revised special standard "aa."</p>	<p>"m" and "y" updates based on current practice.</p> <p>"s" originally put in regulation because of a permittee concern from the 1970's. Standard is outdated and not needed.</p> <p>Special standard "aa" lower pH needed because of upstream swamp waters.</p>

Summary Proposed Triennial Review Water Quality Standards Amendments

June 2007

Section of Regulation Amended	Summary of Change	Comments
9 VAC 25-260-310 Special Standards and Requirements, continued....	Added special standard “ee” to reflect higher pH values in lake fertilized to maintain a recreational fishery. Added special standard “ff” to clarify the appropriate form of manganese needed to protect the aesthetic qualities of drinking water. Added special standard “gg” to reflect subcategory of benthic aquatic life uses present below a dam. Added special standard “hh” to reflect seasonal summer temperatures in certain streams that are stocked with trout in the winter but warmwater in the summer.	New special standards needed to reflect existing conditions so that the streams will not be listed as impaired for unattainable and infeasible standards and permit limits not based on unattainable standards
9 VAC 25-260-320. Scenic rivers	Deleted.	Scenic rivers are listed in the Code of Virginia and have no regulatory function for DEQ.
9 VAC 25-260-350. Designation of nutrient enriched waters	Deleted 2 lakes and a stream from the nutrient enriched designation.	These waters are in the Bay watershed and now fall under other regulations for nutrient control (Water Quality Management Planning Regulation 9 VAC 25-720) and Regulation for Nutrient Enriched Waters(9 VAC 25-40).
9 VAC 25-260-360. Section number and description columns.	Revised James and Yadkin references.	To match changes made to river basin tables.
9 VAC 25-260-380. Special standards column	Changed ‘all other surface waters’ to ‘recreational waters’ Added explanation of new acronym for exceptional state waters in special standards column.	To match title of bacteria section for recreational use protection.
9 VAC 25-260-390 through 540	Revised and/or deleted in the River Basin Section Tables several trout streams, added new Class VII Swamp Water, identified Exceptional State Waters (ESW), deleted several pH non-limestone stream special standards and made miscellaneous corrections.	Trout streams recommended by DGIF ESWs already adopted previous rulemaking. Limestone streams previously misidentified.

Summary Proposed Triennial Review Water Quality Standards Amendments
June 2007